

REMARKS

This application has been carefully reviewed in light of the Office Action dated January 20, 2004. Claims 1, 6 to 19, 24, 25 and 28 are in the application, of which Claims 1, 19 and 28 are the independent claims. Reconsideration and further examination are respectfully requested.

Initially, Applicants thank the Examiner for her indication that Claim 28 is allowed.

Claims 19, 24 and 25 were rejected under 35 U.S.C. § 112, second paragraph. Specifically, the Office Action alleged that Claim 19 was narrative in form and functional in nature and that the phrase “the moving speed of the samples” in Claim 25 lacked antecedent basis. In response, Claims 19 and 25 have been amended to attend to the specific points raised in this rejection. Accordingly, withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Claims 1, 6 to 17, 19, 24 and 25 were rejected under 35 U.S.C. § 102(a) over WO 00/68668 (Yurino), and Claim 18 was rejected under 35 U.S.C. § 103(a) over Yurino. Reconsideration and withdrawal of the rejections are respectfully requested.

The present invention as recited by amended Claim 1 concerns a method for measuring fluorescence emitted from samples on a measuring surface of a substrate by illuminating the samples with excitation light. An excitation light illumination portion and a light detecting portion are moved independently of each other relative to the samples and are spaced apart in such a manner as to make it possible to prevent the excitation light from approaching the light detecting portion where measurements are made of the fluorescence. The fluorescence emitted from the samples is measured while the excitation light

illumination portion and the light detecting portion are moved relative to the samples after illuminating the samples with the excitation light.

The present invention as recited by amended Claim 19 concerns a fluorometric device which includes an excitation light illumination portion where samples on a measuring surface of a substrate are illuminated with excitation light, a light detecting portion where measurements of the fluorescence emitted from the samples is performed, and means for varying the spacing between the excitation light illumination portion and the light detecting portion. The excitation light illumination portion and the light detecting portion are spaced apart in such a manner as to make it possible to prevent the excitation light from approaching the light detecting portion.

Thus, according to a feature of the invention as recited by amended Claim 1, the excitation light illumination portion and the light detecting portion are moved independently of each other relative to the samples. Meanwhile, according to a feature of the invention as recited by amended Claim 19, the spacing between the excitation light illumination portion and the light detecting portion may be varied. By virtue of either of these features, it is possible to control or change the relative positions or distance between the excitation light illumination portion and the light detecting portion to suit different measuring conditions.

Yurino is not seen to teach or suggest at least either of the foregoing features.

In Yurino, the excitation light radiating optical system (40) and the fluorescence detecting optical system (50) are seen to move together in an optical head (20). In this manner, the excitation light radiating optical system and the fluorescence


detecting optical system do not move independently of one another and the space between them does not vary.

Accordingly, withdrawal of the Section 102 and 103 rejections is respectfully requested.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Attorney for Applicants
Registration No. 54,334

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200

CA_MAIN 81370v1